

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>EVELYN M. DIXON</b>	:	<b>CIVIL ACTION</b>
	:	
<b>v.</b>	:	<b>NO. 03-CV-5291</b>
	:	
<b>JO ANNE B. BARNHART,</b>	:	
<b>Commissioner of Social Security</b>	:	

**MEMORANDUM AND ORDER**

**Kauffman, J.** **January       , 2005**

Plaintiff Evelyn M. Dixon seeks judicial review of the final decision of the Commissioner of the Social Security Administration, Jo Anne B. Barnhart (“Commissioner”), denying her claim for Supplemental Security Income (“SSI”) benefits under Title XVI of the Social Security Act (“Act”), 42 U.S.C. §§ 1381-1383(f). Plaintiff and the Commissioner filed cross motions for summary judgment. The Court requested that United States Magistrate Judge Jacob P. Hart submit a Report and Recommendation. See 28 U.S.C. § 636(b)(1)(B); Local R. Civ. P. 72.1(d)(1)(C).

Magistrate Judge Hart has recommended that the Court grant Plaintiff’s Motion for Summary Judgment and award benefits, and deny the Commissioner’s Motion. Because the Commissioner has objected to the Magistrate Judge’s Report and Recommendation, this Court must “make a de novo determination of those portions of the record or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. §636(b)(1)(C). Having reviewed the Report and Recommendation and the Commissioner’s objections thereto, the Court will approve and adopt the Report and Recommendation.

## **I. Procedural History**

On July 25, 2000, Plaintiff filed an application for SSI benefits, claiming disability as of February 1994. (R. at 12). This application was denied. Id. Plaintiff then requested a de novo hearing before an Administrative Law Judge (“ALJ”), which was held on November 15, 2002. (R. at 20). At that hearing, both Plaintiff and her mother, Barbara Ballenger, testified. Id. In addition, a vocational expert was present, though the ALJ chose not to receive testimony from this individual. Id. On February 8, 2002, the ALJ issued his decision denying Plaintiff’s claim for benefits. (R. at 18-19). Plaintiff made a request for review, which was denied by the Appeals Council, making the ALJ’s opinion the final decision of the Commissioner. (R. at 2). Having thus exhausted her administrative remedies, Plaintiff subsequently commenced this action.

## **II. Standard of Review**

### A. The Commissioner’s Decision

Judicial review of a Social Security case is based upon the pleadings and the transcript of the record. 42 U.S.C. § 405(g). The scope of the Court’s review of the Commissioner’s decision is limited to determining whether the Commissioner applied the correct legal standards and whether the record, as a whole, contains substantial evidence to support the Commissioner’s findings of fact. See Fagnoli v. Massanari, 247 F.3d 34, 38 (3d Cir. 2001); Knepp v. Apfel, 204 F.3d 78, 83 (3d Cir. 2000); Jeserum v. Sec’y of the United States Dep’t of Health & Human Servs., 48 F.3d 114, 117 (3d Cir. 1995).

“The Court is bound by the ALJ’s findings of fact if they are supported by substantial evidence in the record.” Plummer v. Apfel, 186 F.3d 422, 427 (3d Cir. 1999). “Substantial evidence ‘does not mean a large or considerable amount of evidence, but rather such relevant

evidence as a reasonable mind might accept as adequate to support a conclusion.” Hartranft v. Apfel, 181 F.3d 358, 360 (3d Cir. 1999) (quoting Pierce v. Underwood, 487 U.S. 552, 565 (1988)); see also Plummer, 186 F.3d at 427 (noting that “substantial evidence” has been defined as “more than a mere scintilla”). In sum, “[t]he court cannot conduct de novo review of the Commissioner’s decision or re-weigh the evidence of record.” Palmer v. Apfel, 995 F. Supp. 549, 552 (E.D. Pa. 1998).

#### B. The Magistrate Judge’s Report and Recommendation

The Court must engage in a de novo review of those portions of the Magistrate Judge’s Report and Recommendation to which the Commissioner has objected. See 28 U.S.C. § 636(b)(1)(C). The Court “may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate.” Id. In considering the Commissioner’s objections to the Report and Recommendation, the Court has independently reviewed the entire record, including the Report and Recommendation, the ALJ’s decision, the transcript of the hearing, the hearing exhibits, and the summary judgment briefs.

### **III. Social Security Law**

Title XVI of the Act provides for the payment of disability benefits to indigent persons under the SSI program. See 42 U.S.C. § 1382(a). “Disability” is defined as an inability “to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.” 42 U.S.C. § 1382c(a)(3)(A). The Act further provides:

An individual shall be determined to be under a disability only if his physical or

mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), ‘work which exists in the national economy’ means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

42 U.S.C. § 1382c(a)(3)(B). The claimant carries the initial burden of proving disability. See Plummer, 186 F.3d at 428. Once the claimant establishes an inability to perform his or her prior work, the burden then shifts to the Commissioner to show that the claimant can perform other substantial gainful work that exists in the national economy. Id.

Under the Social Security regulations, an application for disability benefits is evaluated according to a five-step sequential process. See Bowen v. Yuckert, 482 U.S. 137, 140-42 (1987); 20 C.F.R. § 416.920. This process requires the presiding ALJ to review: (1) claimant’s current work activity; (2) the severity of the impairments; (3) whether the impairments, considered alone or in combination, meet or equal any listing set forth in Part 404, Subpart P, Appendix 1, which would result in a conclusive presumption of disability; (4) whether claimant’s residual functional capacity allows him or her to perform his or her past relevant work; and, if not, (5) whether claimant’s specific residual functional capacity, in conjunction with a consideration of his or her age, education, and work experience, prevents him or her from performing other work that exists in the national economy. The claimant is entitled to disability benefits only if he or she is not able to perform such other work.

#### **IV. The ALJ’s Decision**

Using this sequential evaluation process, the ALJ determined that Plaintiff had satisfied

the requirements of step one because she had not engaged in any substantial gainful activity since the alleged onset of her disability. (R. at 13). At step two, the ALJ determined that Plaintiff suffered from an anxiety disorder and post-traumatic stress disorder (“PTSD”), and that these were severe impairments within the meaning of the Regulations. (R. at 14-15). The ALJ next determined under step three that Plaintiff did not qualify for a conclusive presumption of disability because her impairments, considered singly or in combination, were not of sufficient severity to meet or equal those listed in the applicable regulations. (R. at 15). The ALJ further noted that Plaintiff

has mild restriction in activities of daily living, mild to moderate difficulties with social functioning, mild difficulties in maintaining concentration, persistence or pace, and no episodes of decompensation, each of extended duration.

(R. at 15). Under step four, the ALJ found that Plaintiff had no past relevant work experience.

(R. at 17). As a result, the ALJ moved to the fifth and final step to determine whether Plaintiff’s residual functional capacity precluded performance of other work existing in the national economy. The ALJ found that Plaintiff retained the residual capacity to “lift, carry, stand, walk...at all exertional levels” and that she was “mentally capable of understanding, carrying out and remembering simple instructions, responding appropriately to supervision, co-workers, and usual work situations, dealing with changes in a routine work setting, and making simple work-related decisions.” (R. at 16-17). In light of these facts, Plaintiff’s young age, and her high school diploma, the ALJ concluded that Plaintiff was not disabled. (R. at 18).

## **V. The Magistrate Judge’s Report and Recommendation**

In his Report and Recommendation, Magistrate Judge Jacob P. Hart found that the ALJ’s conclusions were not supported by substantial evidence for several reasons. First, the ALJ failed

to consider or address a number of diagnoses made by various medical experts concerning Plaintiff. While the ALJ acknowledged Plaintiff's anxiety disorder and PTSD, he failed to consider Dr. Cho's diagnoses of Dysthymic and personality disorders.<sup>1</sup> In addition, the ALJ apparently disregarded, without explanation, the oft-repeated diagnosis of Oppositional Defiant Disorder ("ODD"), as well as the diagnoses of Attention Deficit/Hyperactivity Disorder ("ADHD") and bipolar disorder.<sup>2</sup> The Magistrate Judge noted that the ALJ's failure to accept or at least recognize these diagnoses significantly undermined the reliability of his evaluation. See, e.g., Fargnoli, 247 F.3d at 40 (stating that ALJ must adequately evaluate all relevant evidence presented, explain the basis for his conclusions, and explain or justify the weight given to differing medical assessments); see also Morales v. Apfel, 225 F.3d 310, 317 (3d Cir. 2000) (recognizing that ALJ can choose which evidence to credit, but that he is not free to reject evidence for no reason or on inappropriate grounds).

Second, the Magistrate Judge found that the ALJ acted in error by applying the Medical-Vocational Rules, or "Grids," to determine that Plaintiff was not disabled, because the existence

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<sup>1</sup> Dysthymic Disorder is defined as at least two years of depressed mood, accompanied by depressive symptoms that do not meet the criteria for a major depressive episode. See Magistrate's Report, citing Diagnostic and Statistical Manual of Mental Disorders IV– Text Revision ("DSM") at 345 (2000). A personality disorder is an enduring pattern of inner experience and behavior that deviates markedly from the expectation of an individual's culture, manifested in two of the following: cognition, affectivity, interpersonal functioning, or impulse control. Id. at 689.

<sup>2</sup> ODD is a pattern of negativistic, hostile and defiant behavior, causing clinically significant impairment in social, academic, or occupational functioning. Id. at 100-102. ADHD involves a persistent pattern of inattention and/or hyperactivity-impulsivity that is more frequent and severe than that typically observed in individuals at a comparable developmental level. See Plaintiff's Motion for Summary Judgment, citing DSM at 78-81.

of non-exertional impairments in Plaintiff's case precluded strict reliance on the Grids.<sup>3</sup> The only impairments alleged in this case were of a non-exertional nature; because the ALJ concluded that Plaintiff suffered certain impairments, including mild restrictions in daily living and mild to moderate difficulties in social functioning, he could not consistently hold that she did not suffer non-exertional limitations. As a result, the ALJ was not permitted to rely exclusively on the Grids in his disability determination. See, e.g., Sykes v. Apfel, 228 F.3d 259, 269-70 (3d Cir. 2000) (explaining that Grids were only intended to govern in situations involving exclusively exertional limitations).

Third, the Magistrate Judge took issue with the ALJ's treatment of the abundant medical evidence in this case. The ALJ purported to rely on the report of Dr. Bennett, which pre-dated significant events in Plaintiff's life and contradicted much of the other medical evidence offered. In addition, the ALJ refused to address or consider important lay evidence, including that offered by Plaintiff's caseworker with the Mental Health/Mental Retardation Program for Lancaster County, Phyllis Landis, and that presented by Heather D. Wray, Plaintiff's Clinical Coordinator. The Magistrate Judge concluded that, while not evidence from "acceptable medical sources" under 20 C.F.R. § 416.913, this was still important evidence that should have been at least addressed by the ALJ.

Finally, in rejecting the ALJ's determination, the Magistrate Judge further concluded that remand was not necessary as the administrative record had been adequately developed and

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<sup>3</sup> Impairments can be exertional or non-exertional; exertional impairments are only those that affect a claimant's ability to meet the strength demands of a job, whereas non-exertional impairments include a broader range of difficulties, such as mental disabilities. See Sykes v. Apfel, 228 F.3d 259, 263 (3d Cir. 2000).

substantial evidence on the record as a whole supported a finding that Plaintiff was entitled to benefits. Accordingly, in his Report and Recommendation, the Magistrate concluded that Plaintiff was disabled within the meaning of the Social Security Act.

## **VI. Analysis**

The Commissioner has raised several objections to the Magistrate Judge's Report and Recommendation. First, the Commissioner argues that the Magistrate Judge did not adhere to the narrow standard of judicial review under the Social Security Act, and that the ALJ's recommendation was in fact supported by substantial evidence. Second, the Commissioner argues that even if the Magistrate Judge's Recommendation is accepted, the case should be remanded and not reversed.

### A. Question of Substantial Evidence

After a de novo review, this Court agrees with Magistrate Judge Hart that the ALJ's recommendation was not supported by substantial evidence, failing in two respects. First, the ALJ's assessment of the evidence was incomplete because, while purporting to credit certain medical evidence presented by Plaintiff, he actually relied on only select portions of this evidence, disregarding, without sufficient explanation, other portions of the referenced exhibits. Second, the ALJ's opinion is unsupportable because of the substantial evidence that he simply disregarded without explanation.

The factual background has been set forth both on the record and in the Magistrate Judge's Report. In brief, Plaintiff was born on June 24, 1979 to drug addicted parents, who were incarcerated at various points. (R. at 95, 320). Plaintiff suffered neglect, severe physical abuse, and sexual abuse as a young child. (R. at 175, 255, 244). By the age of two, she was diagnosed



as a “failure to thrive” child, later failing several grades despite enrollment in special education programs. (R. at 41). Plaintiff ceased living with her mother some time around age 15, when she moved in with her grandmother and continued to have certain behavioral problems. (R. at 241). In 1997, Plaintiff was admitted to the Phillhaven Behavioral Health Care Services. (R. at 267). She made only minimal progress in this placement and was threatening to staff and peers. (R. at 268). After approximately three months, Plaintiff was placed in a foster home. (R. at 106, 115, 128). A month later, she was hospitalized in the Meadows program, due to her ongoing behavioral and mental health issues. Id. In August 1998, after a violent incident, Plaintiff was removed from her foster home and placed in the Altoona Hospital Crisis Center for ten days. (R. at 239, 220). Afterwards, she returned to foster care and, in February 2001, was placed in the Hiram G. Andrews Vocational Technical School residential program. (R. at 35-36, 44). However, Plaintiff was shortly thereafter expelled for fighting. Id.

At the time of her hearing before the ALJ, Plaintiff was residing with her mother, and her caseworker was seeking placement in an intensively supervised residential treatment facility. (R. at 50, 343-44).

In support of her application for disability benefits, Plaintiff presented medical evidence from various physicians and institutions who treated her, dating from early 1998 through October 2001. The law is clear that, in ruling on an application for benefits, an ALJ is required to consider all probative, competent medical evidence before him, especially where contradictory medical evidence is offered. See, e.g., Burnett v. Comm’r of Soc. Sec. Admin., 220 F.3d 112, 121 (3d Cir. 2000); Dobrowolsky v. Califano, 606 F.2d 403, 407 (3d Cir. 1979).

In ruling Plaintiff capable of engaging in competitive employment, and therefore not

disabled, the ALJ relied primarily on Exhibits 1F (Dr. Richard Bennett's notes and psychiatric evaluation, and reports from Altoona Hospital Mental Services) and 4F (Dr. Doo Wan Cho's October 2000 report). Yet, even while purporting to rely on this evidence, the ALJ apparently ignored several diagnoses and observations of the medical professionals who made the reports, instead opting to reference only select portions that paint Plaintiff's situation in the most positive light. For example, while the ALJ adopted the diagnoses of anxiety disorder and PTSD, Exhibit 1F also contains diagnoses of depressive disorder, personality disorder with borderline antisocial features, ODD, Dysthymic Disorder, and severe sexual and physical abuse. (R. at 178, 182, 186). Similarly, while the ALJ credits the August 1998 report contained in Exhibit 1F to the extent that it finds Plaintiff capable of self-care and abstraction, he simply discounted the recorded global assessment of functioning ("GAF") of 25-40.<sup>4</sup> Cf. Morales, 225 F.3d at 318 (stating ALJ should consider the reasoning and medical findings, in addition to treating physician's ultimate conclusions).

This pattern of culling only positive indicators from the medical evidence is repeated in the ALJ's treatment of Dr. Cho's report. While the ALJ claims to credit Exhibit 4F, Dr. Cho's report of Plaintiff's GAF rating of 55, (R. at 16), he discounted Dr. Cho's actual assessment of Plaintiff and the accompanying notes regarding Plaintiff's inability to engage in competitive employment. In the October 2000 report, Dr. Cho specifically diagnosed Plaintiff with Dysthymic Disorder and personality disorder and found that she has no ability to relate to co-

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<sup>4</sup> A GAF score enables a clinician to indicate a judgment of a claimant's psychological, social, and occupational functioning, in order to assess mental illness. A GAF of 50 or lower indicates "serious" symptoms, including the inability to hold a job. See Plaintiff's Motion for Summary Judgment at 6, citing DSM at 30-32.

workers, deal with the public, use judgment, interact with a supervisor, or deal with work stresses. (R. at 321-23). Dr. Cho further noted Plaintiff's "borderline intellectual" functioning and "poorly developed social skills," (R. at 323-24), which apparently were not recognized by the ALJ.

More fundamentally, there is overwhelming evidence on the record overlooked or ignored by the ALJ, which bolsters Plaintiff's claim for disability. From the ALJ's report, it appears that he did not consider evidence including documentation from Plaintiff's time at the Philhaven Behavioral Center and the Meadows Treatment Center; the reports of Doctors Lynette G. Ruch and Wayne R. D'Agaro; or, the important lay evidence presented by Ms. Phyllis Landis, Plaintiff's caseworker. For example, a report completed by Dr. Clarita Obleada for the Philhaven Behavioral Health Care Services Program, where Plaintiff was admitted in 1997, indicates that Plaintiff suffered Dysthymic Disorder, ODD and reported a GAF score of between 45-52. (R. at 267-69). Similarly, Dr. Ruch offered a GAF of 50 and diagnosed Plaintiff with PTSD, ODD, and Dysthymic Disorder. (R. at 258). In 1998, during her stay at the Meadows Psychiatric Center, Dr. Kahane diagnosed Plaintiff with depression with psychotic features, ODD, and borderline intellectual functioning. (R. at 286). Next, in 1998, Dr. D'Agaro offered suggested diagnoses of ADHD and ODD, further noting that Plaintiff experienced difficulty "understanding, retaining, and following instructions" or "sustaining her attention enough to perform simple repetitive tasks" and that these problems limited her ability to tolerate the stress and pressure associated with many activities. (R. at 217-18). Finally, Plaintiff presented two reports adjudging her temporarily disabled in 2001 as a result of severe mental impairments, including possible bipolar disorder and depression. (R. at 345-46).

Additional evidence revealing Plaintiff's troubled mental health and potential disability was presented by Phyllis Landis, her caseworker. As the Magistrate Judge noted, although the evidence offered by a treating therapist is not technically from an "acceptable" medical source, Ms. Landis's report and evaluation was nonetheless probative evidence that the ALJ should have considered in reaching his determination. See, e.g., Williams v. Apfel, 98 F. Supp. 2d 625, 631-32 (E.D. Pa. 2000) (explaining that certain relevant evidence from "non-acceptable" sources, such as social workers, should be considered by ALJ in a disability evaluation); Hartranft, 181 F.3d at 361. Ms. Landis provided a detailed assessment of Plaintiff's social functioning and other capabilities, ultimately concluding that she suffers a personality disorder so pervasive she would not be able to maintain a job. (R. at 344).

Taken together, this evidence presents a very different picture of Plaintiff's overall mental health and ability to function in a competitive work environment than that considered by the ALJ. While the ALJ considered only the effects of PTSD and a possible anxiety disorder, virtually every doctor who treated Plaintiff concluded that she also suffered ODD and Dysthymic Disorder. In addition, other medical reports presented potentially probative diagnoses of depressive disorder, personality disorder, and ADHD. Furthermore, the observations accompanying the reports expressed doubt about Plaintiff's ability to function and succeed outside highly structured environments, or to deal adequately with the stresses of the workplace.

In evaluating a claim for disability, it is incumbent upon the ALJ to analyze the cumulative effects of all of a claimant's relevant impairments. See 20 C.F.R. § 416.945. More generally, the ALJ must fully consider all relevant medical evidence. See, e.g., Cotter v. Harris, 642 F.2d 700, 705 (3d Cir. 1981). Even if the ALJ opts not to credit certain pieces of evidence,

for the purposes of effective judicial review, it is imperative that he acknowledge the evidence and explain his reasoning. See id. (detailing many reasons that an ALJ must clearly set out the basis of his findings); Versace v. Barnhart, 2002 WL 1880526, at \*3 (E.D. Pa. Aug. 14, 2002) (noting ALJ must give specific reasons for discounting evidence he rejects); see also Wier on Behalf of Wier v. Heckler, 734 F.2d 955, 962-63 (3d Cir. 1984). In situations where medical evidence conflicts, it is especially important that the ALJ explicitly address each opinion offered and fully explain his conclusions and reasoning. See Reefer v. Barnhart, 326 F.3d 376, 381-82 (3d Cir. 2003); Fagnoli, 247 F.3d at 42.

In this case, the ALJ failed to address all the evidence in the record, and thus ignored several serious medical impairments noted by Plaintiff's treating physicians. See Fagnoli, 247 F.3d at 42 (noting the substantial weight that should be afforded opinions of treating physicians). At the very least, the ALJ was required to address each diagnosis and offer some explanation as to why he did or did not afford it significant weight. Furthermore, while the ALJ credited parts of certain reports, he was not consistent in his consideration of them; for example, he relied heavily on Dr. Cho's positive GAF assessment, while disregarding the clinical notes and evaluation. This is not a situation where the Court has re-evaluated the medical evidence and simply come to a different conclusion regarding Plaintiff's disability; this is a case where the ALJ did not fulfill his duty of explicitly weighing all competent evidence and the end result is a determination not supported by the whole of that evidence. See Morales, 225 F.3d at 320 (finding no substantial evidence to support ALJ's conclusion where the ALJ relied on pieces of evidence that were overwhelmed by the whole of the rest of the evidence and the ALJ further failed to address countervailing evidence on record).

### B. ALJ's Reliance on the Medical-Vocational Guidelines

In addition, this Court agrees that the presence of non-exertional limitations precluded the ALJ's exclusive reliance on the Grids in evaluating Plaintiff's disability. See 20 C.F.R. Part 404, Subpart P, Appendix 2, § 200.000(e)(2) (stating that Grids should serve only as a framework for evaluating abilities of claimant with exertional and non-exertional limitations). As described above, the ALJ determined that Plaintiff suffered at least mild restrictions in her daily living activities and moderate difficulties in social functioning. Such findings represent a recognition of non-exertional limitations, which precludes strict reliance on the Grids. See, e.g., Caffee v. Schweiker, 752 F.2d 63, 68 n.5 (3d Cir. 1985) (ruling that it is inappropriate for ALJ to rely on Grids where claimant suffers exertional and non-exertional limitations); Sykes, 228 F.3d at 269-70. Accordingly, the ALJ's reliance on the Grids to determine that Plaintiff was not disabled, without the added testimony of a vocational expert, was in error. Burham v. Schweiker, 682 F.2d 456, 457 (3d Cir. 1982) (outlining proper evaluative procedure in cases with non-exertional limitations)

### C. Magistrate Judge's Award of Benefits and Failure to Remand

Finally, this Court finds that there is sufficient evidence on record to merit the award of benefits without remand to the ALJ. As Magistrate Judge Hart writes, "the medical and non-medical evidence, together with [Plaintiff's] history, reveal that her mental illness has prevented her from ever completing any endeavor successfully on her own." Magistrate Judge's Report at 6; see also Caffee, 752 F.2d at 67-68 (emphasizing the need for courts to recognize the difficulty faced in the competitive work environment by those suffering mental illness). As the substantial evidence on record shows, the Commissioner failed to sustain her burden at step five of

demonstrating the existence of other work in the national economy that Plaintiff would be able to complete, given Plaintiff's multiple impairments, age, education, and total lack of work experience. See, e.g., Gilliland v. Heckler, 786 F.2d 178, 183 (3d Cir. 1986) (stating that, at this stage, the Secretary must present competent evidence that claimant's non-exertional impairment is consistent with the requirements of specific jobs in the national economy). Furthermore, in addition to supporting a finding of disability, the substantial evidence summarized above and set forth in the Magistrate Judge's Report demonstrates that the record in this case was adequately developed and that there is no need for remand, which would simply delay the rightful award of benefits to Plaintiff. See, e.g., id. (ruling remand unnecessary where the administrative record is well developed, substantial evidence supports the award of benefits, and remand will only extend delays); Faison v. Heckler, 1986 WL 10111, at \*9 (E.D. Pa. Sept. 17, 1986) (stating that where the Secretary fails to rebut a prima facie showing of disability, reviewing court may reverse without remand); Morales, 225 F.3d at 320 (holding there is no need to remand for determination of benefits where the record is complete and remand would only result in further unnecessary delays).

## **VII. Conclusion**

The ALJ's decision to deny Plaintiff benefits was not supported by substantial evidence in the record; instead, the record supports the award of benefits as recommended in the Magistrate Judge's Report, and Defendant's objections to the Report and Recommendation are overruled. Accordingly, Plaintiff's Motion for Summary Judgment will be granted, and the Commissioner's Motion for Summary Judgment will be denied. An appropriate Order follows.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>EVELYN M. DIXON</b>	:	<b>CIVIL ACTION</b>
	:	
<b>v.</b>	:	<b>NO. 03-CV-5291</b>
	:	
<b>JO ANNE B. BARNHART,</b>	:	
<b>Commissioner of Social Security</b>	:	

**ORDER**

**AND NOW**, this 18th day of January, 2005, the Court having considered the parties' Motions for Summary Judgment and reviewed the Report and Recommendation of United States Magistrate Judge Jacob P. Hart, Defendant's Objections thereto, and the entire record, including the ALJ's decision, transcript of the hearing, and hearing exhibits, it is

**ORDERED** that:

1. The Report and Recommendation (docket no. 17) is **APPROVED** and **ADOPTED**;
2. Plaintiff's Motion for Summary Judgment (docket no. 9) is **GRANTED**;
3. Defendant's Motion for Summary Judgment (docket no. 11) is **DENIED**; and
4. The Clerk of Court shall mark this case **CLOSED**.

**BY THE COURT:**

S/ Bruce W. Kauffman  
**BRUCE W. KAUFFMAN, J.**



